

Order

**Supreme Court
Lansing, Michigan**

October 6, 2005

128199

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

TOMMY LEE BROWN, JR.,
Defendant-Appellee.

Clifford W. Taylor,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

SC: 128199
COA: 250016
Genesee CC: 02-009938-FH

By order of May 5, 2005, the application for leave to appeal was held in abeyance pending the decision in *People v Houston* (Docket No. 126025). On order of the Court, the opinion having been issued on July 26, 2005, 473 Mich 399 (2005), the application is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the January 27, 2005 judgment of the Court of Appeals and REMAND this case to the Genesee Circuit Court for resentencing. As we held in *Houston*, under the circumstances of this case, OV 3 should be scored at 25 points.

We do not retain jurisdiction.



s0929

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 6, 2005

Corbin R. Davis

Clerk